



20 APR 2007

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In re Application of
ZEPKE *et al*
U.S. Application No.: 10/549,605
PCT No.: PCT/US2003/008532
Int. Filing Date: 20 March 2003
Priority Date: None
Docket No.: OT-4933
For: WIRELESS ELEVATOR HALL
FIXTURES INTEGRAL WITH HALL
DOOR FRAME

DECISION

This is a decision on the request to add an inventor in the above-captioned application filed 08 February 2007. This is treated as a petition under 37 CFR 1.497(d).

BACKGROUND

On 10 July 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicants were given two months to respond with extensions of time available.

On 22 December 2006, applicants submitted a declaration listing three inventors along with a four-month extension and fee.

On 18 January 2007, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted 22 December 2006 was not in compliance with 37 CFR 1.497(a) and (b) because inventor Paul Stucky was not recorded as an inventor in the international application. Applicants were given one month to respond, or any time remaining on the Form PCT/DO/EO/905.

On 08 February 2007, applicants filed a reply which was accompanied by, *inter alia*, the processing fee; a "Statement by the Originally Unnamed Inventor"; and a "Statement of Consent by Assignee to Correct Inventorship."

DISCUSSION

Applicants request to add Mr. Stucky as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage

application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(l); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by Mr. Stucky who requests to be added as an inventor in the above-captioned application. Mr. Stucky states that the error in inventorship "occurred without deceptive intent." The processing fee of \$130.00 has been paid. Applicants also submitted a declaration of the assignee consenting to the change of inventorship. This document was signed by Mr. Randy G. Henley as Intellectual Property Counsel.

The Consent of Assignee is not accepted for the following reason.

MPEP § 324 states that: "[a] person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. The consent of assignee was signed by Mr. Randy G. Henley as Intellectual Property Counsel of Otis Elevator Company. This position is not presumed to have authority to sign the statement on behalf of the assignee. In addition, the submission does not set forth that Mr. Henley is authorized to act on behalf of the assignee.

Therefore, all the requirements of 37 CFR 1.497(d) are not yet complete.

CONCLUSION

For the reason discussed above, applicants' request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions

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of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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